IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Revn.No. 888 of 1995
Date of Decision: November 12, 2007

Krishan Kumar

...Petitioner

Versus

State of Haryana

...Respondent

Coram: Hon'ble Mr. Justice Harbans Lal

Present: Mr.Atul Lakhanpal, Advocate
for the petitioner.

Mr. A.K.Rathee, Assistant Advocate General, Haryana

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Harbans Lal, J.

This revision is directed against the judgment/order dated 22.10.1993 vide which the Court of learned Sub Divisional Judicial Magistrate, Hansi convicted and sentenced the petitioner to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.1000/- or in its default to undergo further rigorous imprisonment for a period of one month under Section 16(1)(a)(i) read with Section 7 of the Prevention of Food Adulteration Act, 1954 (for short 'the Act') as well as the judgment dated 22.11.1995 rendered by the Court of learned Additional Sessions Judge, Hisar vide which he dismissed the appeal.

Put shortly, the facts of the prosecution case are that on 27.4.1986 Food Inspector Daya Kishan accompanied by Dr.M.L.Kalra and one Krishan Kumar visited the shop of the accused situated at bus stop Sisai

Bridge, Hansi. After disclosing his identity and serving a notice Ex.PA on the accused, the Food Inspector purchased 750 MLs. of cow milk out of a bucket containing 5 kgs of milk. The sample was divided into three parts and put in three dry and clean bottles. The preservative was added as required. The bottles were duly corked, labelled and sealed. One sealed sample bottle alongwith a copy of Form-VII was sent to the Public Analyst for analysis through railway parcel and one copy of Form-VII with the impressions of seal was sent to the Public Analyst separately through registered post. The report of Public Analyst Ex.PE was received in due course of time. As per that report the sample of milk was found to be adulterated in as much as the milk solids not fat were found to be deficient by 7%. Then the Food Inspector lodged the complaint. A copy of the report of the Public Analyst alongwith a forwarding letter was sent through registered post to the accused.

On the basis of complaint and after recording the pre-charge evidence accused was summoned and charge under Section 16(1)(i)(a) of the Act was framed. The learned trial Magistrate after recording the prosecution evidence and statement of the accused under Section 313 Cr.P.C. and after hearing the learned Government Food Inspector for the State and the learned defence counsel, convicted and sentenced the petitioner as noticed at the outset. Feeling aggrieved with the judgment/order dated 22.10.1993 preferred an appeal, which was also dismissed by the learned Additional Sessions Judge, Hisar.

I have heard the learned counsel for the parties and perused the

record carefully.

Mr. Atul Lakhanpal, Advocate appearing on behalf of the petitioner has not assailed the conviction of the petitioner recorded by the Courts below, consequently, the same is maintained.

He has submitted that in view of the observations made in re: **Harbans Lal vs. State of Haryana**, 2001(2) Recent Criminal Reports (Criminal), 333 (P&H), this incident being more than 21 years old, the sentence inflicted upon the petitioner may be reduced to already undergone. I have given a deep and thoughtful consideration to this submission.

In re:**Sita Ram vs. State** 2004(1) Recent Criminal Reports (Criminal), 924 (Delhi), the accused faced trial for 18 years, his sentence was reduced to already undergone by the Delhi High Court. Reference may also be made to the observations rendered in re: **Mahavir vs. State through Govt. Food Inspector,** 2000(4) Recent Criminal Reports (Criminal) 208, **Ganesh Maity vs. U.T.Chandigarh**, 2003(1) Recent Criminal Reports (Criminal)418, **Suraj Bhan vs. State of Haryana**, 2003 Recent Criminal Reports (Criminal) 332, **Sher Singh vs. State of U.T. Chandigarh,** 2003(2) Recent Criminal Reports (Criminal) 826.

There is no denying the fact that the incident is more than 21 years old. Thus, obviously the petitioner has faced the agony of trial for a pretty long time. He has suffered both financial and mental agony on account of protracted trial. In my view, the ends of justice would be sufficiently met if while maintaining the conviction, the sentence imposed upon the petitioner is reduced to the period already undergone and the

amount of fine is enhanced to Rs.5000/- and in its default to further undergo rigorous imprisonment for three months. With such modification in sentence, this revision petition is disposed of.

November 12, 2007 **(HARBANS LAL)**
gsv **JUDGE**

Whether to be referred to the Reporter? Yes/No